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No. 48

In the Supreme Court of the United States

OCTOBER TERM, 1931

LLOYD SABAUDO SOCIETA ANONIMA PER AZIONI,
PETITIONER

v.

PHILIP ELTING, COLLECTOR OF CUSTOMS OF THE PORT OF NEW YORK

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE RESPONDENT

In the Supreme Court of the United States

OCTOBER TERM, 1931

No. 902

LLOYD SABAUDO SOCIETA ANONIMA PER AZIONI, petitioner

v.

PHILIP ELTING, COLLECTOR OF CUSTOMS OF THE Port of New York

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE RESPONDENT

OPINIONS BELOW

The opinion of the District Court (R. 535) is reported in 45 F. (2d) 405. The opinion of the Circuit Court of Appeals (R. 633) is reported in 55 F. (2d) 1048.

JURISDICTION

The judgment sought to be reviewed was entered February 8, 1932. (R. 639.) The petition for certiorari was filed April 29, 1932. The jurisdiction of this Court is invoked under Section 240 (a) of the Judicial Code as amended by the Act of February 13, 1925.

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QUESTIONS PRESENTED

1. Whether the Secretary of Labor's decision not to refund certain fines imposed under Section 9 of the Immigration Act of 1917, the Quota Act of 1921, as amended in 1922, and the Immigration Act of 1924 for bringing into the United States aliens inadmissible under immigration laws is subject to judicial review.

2. Whether, if reviewable, such a decision should have been reversed by the District Court, there being evidence to support it.

STATEMENT

This suit was brought upon fifteen causes of action. Each was to recover a fine collected from the petitioner for bringing to the United States during the years 1923 to 1926 an alien concededly inadmissible under the immigration laws. A refund of each fine was sought from the Secretary of Labor and denied by him.

The facts vary as to each of the thirteen causes of action presented in the petition. Those regarding the tenth cause of action are fully stated at pages 3–8 in the petition for certiorari.

DISCUSSION

The respondent does not oppose the granting of the writ of certiorari sought by the petitioner in this case.

While we believe the decision below to be correct, the questions involved are so similar to those

presented by the Government's petition in *Philip Elting, Collector of Customs, Port of New York* v. *North German Lloyd*, now pending on petition for certiorari, No. 885, that their general importance makes a review of this case by the Court desirable to the Government as well as to the petitioner.

Respectfully submitted.

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MAY, 1932.

U. S. GOVERNMENT PRINTING OFFICE: 1932